Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1977

NO. 76-1726

MOBIL OIL CORPORATION,
Petitioner

versus

FRANCIS NELL HIGGINBOTHAM,
Administratrix of the estate of Marshall K. Higginbotham, et al.,
Respondent

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Petition for Certiorari Filed June 6, 1977
Certiorari Granted October 3, 1977

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1. Chronoligical list of the important dates on which pleadings were filed, hearings held and orders entered.

This appendix covers three separate civil actions instituted by the respondents Higginbotham, Nation and Shinn and consolidated for trial.

March 30, 1971
The trial was held in Opelousas, Louisiana before the Hon. Nauman S. Scott, United States District Judge, Western District of Louisiana.

April 25, 1973
District Court's judgment on liability.

June 25, 1973
District Court's judgment on quantum.

January 13, 1977
Opinion of the United States Court of Appeal, Fifth Circuit.

March 7, 1977
Denial of rehearing by the United States Court of Appeal, Fifth Circuit.

June 6, 1977
Docketing of the Petition for Writ of Certiorari in this Court.

October 3, 1977
Order of this Court granting a Writ of Certiorari "limited to Question 1 presented by the petition."

2. Relevant pleadings and stipulation

Stipulation between petitioner and respondents

Court of Appeal Transcript, p. 347 L.4 to p. 354, L.10.

The following pleadings consisting of the libels or complaints of the respondents and the answers of the petitioner:

Case No. 13,954, Higginbotham
Libel from p. 1 to p. 19, L. 25 ---- 9
Answer p. 23 L. 15 to p. 29, L. 15. ---- 26

First Supplemental Complaint p. 41, L. 12 to p. 46, L. 25 ---- 33
Answer to First Supplemental Complaint, p. 39, L. 7 to p. 40, L. 15. ---- 38

Case No. 15,316, Nation
Complaint, p. 99, L. 1 to p. 102, L. 24. ---- 40
Answer and Cross Claim, p. 103, l. 1 to p. 106, L. 23. ---- 44

First Supplemental Complaint p. 121, L. 12 to p. 125, L. 5 ---- 48
Answer to First Supplemental Complaint, p. 118, L. 1 to p. 120, L. 15 ---- 52

Case No. 15,326, Shinn
Complaint p. 125, L. 7 to p. 130, L. 5 ---- 55
Answer p. 130, L. 6 to p. 133, L. 11 ---- 60

Amended Complaint, p. 158, L. 12 to p. 160, L. 15 ---- 63

Amended Complaint for Damages, p. 268, L. 1 to p. 269, L. 24. ---- 65
Answer to Amended Complaint for Damages, p. 271, L. 1 to p. 272, L. 10 ---- 67

3. Opinions and Judgments

The Opinion of the Court of Appeals is printed as Appendix C, p. A52 in the Petition for Writ of Certiorari

The District Court's opinion on Liability is printed as Appendix A, p. A1 of the Petition for Writ of Certiorari

The District Court on the subject of Damage is printed as Appendix B, at p. A32 of the Petition for Writ of Certiorari

STIPULATION BETWEEN PETITIONER AND RESPONDENTS

(Title omitted)

MR. BENJAMIN:

May it please the Court, the following facts are established by the pleadings and are stipulations or admissions of counsel:

On or about August 15, 1967, Bell Helicopter, Model 206A, Jet Ranger, Serial 46, Registered N 7846S, manufactured by Bell Helicopter Company and owned by Mobil Oil Corporation crashed in the Gulf of Mexico.

At the time of the crash, J.L. Shinn, Marshall K. Higginbotham and James E. Nation were passengers in the Helicopter and Joseph Clyde Long, Jr. was pilot and, as a result of the crash, all were caused to sustain fatal injuries.

Mobil Oil Corporation is a New York Corporation, having its principal place of business in the State of New York.

Bell Aerospace Corporation and Bell Helicopter Company, a division thereof, are Delaware corporations doing business in Louisiana.

Joseph Clyde Long, Jr., was born January 3, 1934 in Pulaski, Tennessee.

After graduating from high school, he entered the University of Tennessee in 1951 and remained enrolled there through 1952. He then enrolled in Middle Tennessee State College where he studied through 1953, at which time he

enlisted in the U.S. Navy in November of 1953, as an aviation cadet. He then served as a helicopter pilot for the U.S. Marine Corps from February 1955 through October 1957, at which time he was honorably discharged with the rank of First Lieutenant. During his service, he served fourteen months in the Far East.

Mr. Long married Wanda M. Long on December 18, 1954 and of this marriage two children were born, namely, Cynthia Lynn Long born April 13, 1959 and Joseph Kevin Long born February 1, 1957.

After his discharge from the service, Mr. Long returned to Middle Tennessee State College and in 1959 received a Bachelor of Science degree in science with a 2.94 overall average on a 4 point grading system.

After graduation, Mr. Long attended East Tennessee State College on a scholarship to study science education during the year 1960, and at the same time taught 9th grade General Science in Kingsport, Tennessee.

Mr. Long was employed as a helicopter pilot by Petroleum Helicopters, Inc., in August 1960 and remained employed in this capacity until November 1961, at a salary of $600.00 a month.

Mr. Long was employed by Mobil Oil Corporation as a helicopter pilot in November 1961 and he remained employed in this capacity until his death on August 15, 1967, at which time he was being paid a salary by Mobil Oil Corporation of $895.00 per month.

Mr. Long held FAA pilot certificate number 1304556, dated September 10, 1957, and held ratings for single engine land airplane, multi-engine land airplane and rotor craft. His flying time was 206 hours in single engine airplanes, 20 hours in multi-engine airplanes and 6174 hours and 15 minutes in rotor craft, for a total flying time of 6400 hours 15 minutes at the time of his death. In the N7846S, Mr. Long had flown 48 hours 50 minutes. Attached to and made part of this stipulation are reports of physical examinations of Mr. Long made by Dr. Mims Mitchell, Jr. of Lafayette, Louisiana, dated January 31, 1967, January 26, 1966, January 4, 1965 and January 2, 1964.

Bell Helicopter Company, hereinafter referred to as "Bell", is a Delaware Corporation, with its principal office at Fort Worth, Texas.

Bell is engaged in the business of designing, manufacturing, inspecting, repairing, assembling and selling helicopters, and in the course of its business, in the State of Texas designed, manufactured and sold to Mobil Oil Corporation, hereinafter referred to as "Mobil", a Bell helicopter, model 205A Jet Ranger, Registration number 7846S, for use by Mobil in connection with its operations for exploration and production of oil, gas, and other minerals, offshore from the State of Louisiana, and elsewhere in the Gulf of Mexico, for a net price of $98,967.00, as appears from copy of the original bill of sale annexed hereto and made part of this stipulation.

On August 15, 1967, at approximately 1:50 p.m., the N7846S departed Morgan City, Louisiana, with an ultimate destination of Block 215 Vermilion (Baxter Drilling Rig 3) situated in the Gulf of Mexico approximately 100 statute

miles south-southwest of Morgan City.

The helicopter was piloted by joseph Clyde Long, Jr., then acting in the course and scope of his employment by Mobil and carried four passengers; W.O. Keys, J.L. Shinn, J. Case and G. Hunt. The purpose of the flight was to effect a crew change of Mobil and Baxter Drilling Company (Mobil's contractors) personnel.

During the course of the flight, attempted radio contact with the helicopter was unsuccessful and an air search by Mobil and Petroleum Helicopters, Inc., was initiated at approximately 4:45 p.m.

At approximately 5:45 p.m. one of the Petroleum Helicopters, Inc. aircraft flying in the area located parts of N. 7846S floating in the water approximately 2.5 to 4 statute miles northeast of Block 215 Vermilion. All of this area is well beyond a marine league from the Shore of Louisiana.

The floating wreckage was recovered shortly thereafter and consisted of 8'3" of the tail boom with the tail rotor and fin assembly still attached and both floats, still attached to each crossover tube and a small bottom section of the cabin still attached to the forward cross tube. Also recovered were the cyclic stick, odd electrical gear, a seat and maps.

As a result of the crash, Joseph Clyde Long, Jr., J. E. Nation, J. L. Shinn and M. K. Higginbotham sustained fatal injuries, their bodies were never recovered, and no other aircraft parts were found. The water at the crash site is approximately 120 feet deep.

The total flying time of the N7846S prior to the crash was 165.45 hours.

All documents, photographs and other exhibits produced by Bell in response to discovery procedures and request by the parties, all exhibits attached to and made part of the various depositions of witnesses taken in connection with this case and all FAA photographs of the parts recovered are genuine and may be admitted into evidence without further authentication, subject to objections as to materiality, relevancy and admissibility.

James Lex Shinn was born on September 23, 1908 and died on August 15, 1967.

Arline Jones Shinn was born July 13, 1912.

Arline Jones Shinn and James Lex Shinn were lawfully married on March 5, 1931 and were living together at the time of Mr. Shinn's death. Both had been married but once and then to each other.

Of the marriage between Mr. and Mrs. Shinn, the following children were born; Patsy Fay Shinn, born October 27, 1933; Robert Phil Shinn, born November 9, 1937; Eldon Ray Shinn, born December 7, 1941; James Lynwood Shinn, Born January 25, 1944; John Eugene Shinn, born July 15, 1951; and Linda Arline Shinn, born October 20, 1955.

Until his death, James Lex Shinn had been employed by Mobil Oil Corporation for more than thirty years.

At the time of his death, James Lex Shinn was a toolpusher, earning $1,249.00 per month, plus room and board.

During the calendar year 1966, decedent, James Lex Shinn, received wages from Mobil Oil Corporation totaling $14,504.50, plus the value of room and board during the times when he worked offshore.

Plaintiff, Mrs. Arline Jones Shinn, is the duly appointed and qualified testamentary executrix of the Succession of J. L. Shinn as per Letters Testamentary issued to her by the Sixteenth Judicial District Court for the Parish of St. Mary, Louisiana, in proceedings bearing 8213 on the docket of the said Court.

James E. Nation was born in approximately 1910.

Ella Menard Nation was born on May 29, 1906.

James E. Nation and Ella Menard Nation were lawfully married in approximately 1939 and were living together at the time of Mr. Nation's death. Of the marriage, one child was adopted, he being Roy Glen Nation, who was born approximately in 1931, and is now of the age of majority. Both had been married but once, and then to each other.

At the time of his death, James E. Nation was a toolpusher for Mobil Oil Corporation and was earning approximately $1,100.00 per month.

Plaintiff, Jeanette LeBlanc Nation, is the personal representative for Ella Menard Nation, the surviving spouse and Roy Glen Nation, decedent's son and only child.

Marshall K. Higginbotham was born on February 15, 1925.

MR. THOMPSON:

Pardon me just a minute on that stipulation, I realize that there is an error in the marital situation of Mrs. Nation. I will correct that at a later date, Your Honor. But I wanted to make a note in the record at this time, that there is an error in there.

MR. BENJAMIN:

Marshall K. Higginbotham was born on February 15, 1925.

Mrs. Francis Nell Higginbotham was born in September of 1930.

Mrs. Francis Nell Higginbotham has been married twice, first to George S. Bradley, Jr., said marriage having been terminated by divorce, Gregg County, Longview, Texas, and secondly to Marshall K. Higginbotham.

Marshall K. Higginbotham and Francis Nell Higginbotham were lawfully married on July 24, 1950 and were living together at the time of Mr. Higginbotham's death. No children were born of this marriage, but one child was adopted, namely, Donna Joyce Higginbotham, born April 9, 1957, and adopted September 21, 1962 in No. 19,627 in the 75th Judicial District Court for Liberty County, Texas.

At the time of his death, Marshall K. Higginbotham was a

senior toolpusher for Baxter Drilling Company, earning $1,100.00 per month.

At all times pertinent hereto, decedent, James L. Shinn, was a member of the crew of a vessel. Consequently, plaintiff's claims against Mobil Oil Corporation are covered by the Jones Act and Death on the High Seas Act and General Maritime Law of the United States, as they may apply.

Subsequent to the accident, Mobil Oil Corporation began paying, continued to pay and is now paying benefits under the Longshoremen's and Harbor Workers' Compensation Act directly to the widows of the deceased employees.

The widow of James E. Nation is receiving payments in the amount of $73.50 for each two week period.

The widow of Joseph C. Long, Jr., and James L. Shinn are each receiving payments in the amount of $136.50 for each two week period.

Mobil Oil Corporation is therefore subrogated to the rights of the plaintiffs to the extent of these payments plus interest.

* * * *

APPENDIX

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
OPELOUSAS DIVISION

IN ADMIRALTY

THE LIBEL OF
MRS. FRANCIS NELL HIGGINBOTHAM,
AS DULY QUALIFIED ADMINISTRATRIX
AND PERSONAL REPRESENTATIVE OF
MARSHALL K. HIGGINBOTHAM, DECEASED,
FOR THE USE AND BENEFIT OF LIBELANT
AND HER MINOR CHILD, DONNA JOYCE
HIGGINBOTHAM AND INDIVIDUALLY, AND
AS TUTRIX OF SAID MINOR CHILD

AGAINST NO. 13,954

MOBIL OIL CORPORATION AND BELL
HELICOPTER COMPANY A SUBDIVISION
OF OR A SUBSIDIARY OF BELL AEROSPACE
CORPORATION AND/OR TEXTRON, INC.,
IN A CAUSE OF TORT OR DAMAGE, CIVIL
AND MARITIME

CASE NO. 13,954
LIBEL

TO THE HONORABLE, THE UNITED STATES DISTRICT COURT IN AND FOR THE WESTERN DISTRICT OF LOUISIANA

1.

Libelant, Francis Nell Higginbotham, domiciled in Vermilion Parish, Louisiana, has been married twice, first to George S. Bradley, Jr., said marriage being terminated by divorce, Gregg County, Longview, Texas, and secondly to Marshall K. Higginbotham on July 24, 1950, said Marshall K. Higginbotham, being deceased; no children were born to this second marriage but one child was adopted, namely, Donna Joyce Higginbotham, born April 9, 1957, and adopted September 21, 1962, in No. 19,627 in the 75th Judicial District Court for Liberty County, Texas. Marshall K. Higginbotham, departed this life on August 15, 1967, and libelant appearing herein as administratrix of his estate as appears by certificate copy of letters of administration issued in the Succession of Marshall K. Higginbotham,No. 5751, Fifteenth Judicial District Court, Parish of Vermilion, State of Louisiana, annexed hereto and made a part hereof and as personal representative of deceased and his estate and as tutrix of the minor child as shown herein:

2.

Mobil Oil Corporation is a New York corporation domiciled in the State of New York, with its principal office at New York, New York.

3.

Upon information and belief, Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation, a Delaware Corporation and/or Textron, Inc., is a Rhode Island Corporation with its principal office in Providence, Rhode Island, are amenable to suit in Louisiana by virtue of L.S.A.-R.S. 13:3201, etc.

FIRST CAUSE OF ACTION

4.

Respondents, Mobil Oil Corporation and Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc. are jointly, severally and in solido liable unto Libelant as administratrix and personal representative of Marshall K. Higginbotham, deceased for the use and benefit of Libelant and her minor child, Donna Joyce Higginbotham, under Title 46, U.S.C.A. 761 et seq. the death on the High Seas Act, in the amounts hereinafter set forth, for this, to-wit:

5.

Upon information and belief, at all times material herein, Mobil Oil Corporation was the owner and operator of a Bell Helicopter Model 206-A registration No. 7846S believed to be commonly known as the Jet Ranger.

6.

Upon information and belief, Libelant alleges that Bell

Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc. is and has been at all times material herein engaged in the business enterprise of designing, manufacturing, altering, testing and inspecting and repairing, and assembling and selling helicopters including the Jet Ranger mentioned in the prior article and parts thereof and suggesting and/or causing modifications therein but the precise nature of these things are unknown to Libellant at this time, but lie peculiarly in the knowledge of the said company.

7.

At all times material herein, on information and belief, Bell Helicopter, in the course and scope of its business, designed, manufactured and sold to Mobil Oil Corporation a Bell Helicopter, believed to be known as the Jet Ranger, Model 206-A registration No. 7846S for use, and same was used by Mobil Oil Corporation for transportation of people and things in and about the Gulf of Mexico, for oil and gas exploration and/or production.

8.

Upon information and belief, Libelant further avers that the manufacturer, Bell Helicopter Company, a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc. agreed and warranted that Bell Helicopter, Model 206-A registration No. 7846S would meet all other pertinent government agencies and warranted that the said helicopter would be free from defects in design and other defects from the manufacturer thereof.

9.

Upon information and belief, the manufacturer further agreed that they would correct or repair such defects, including defects in design that were discovered or became apparent.

10.

Upon information and belief, respondent Mobil Oil Corporation also warranted, impliedly or otherwise, that said helicopter was free from defects in design, structure, and maintenance, and further warranted the flying skill of its pilot, Joseph C. Long, Jr., and that both were safe for its passengers.

11.

On or about August 15, 1967, Bell Helicopter No. 7846S departed from Mobil Oil Corporation's platform A, located in Vermilion Block 216 on the outer continental shelf, Gulf of Mexico, approximately 100 nautical miles South-southwest of Morgan City, Louisiana. The helicopter was operated by Joseph C. Long, Jr., then acting in the course and scope of his employment as a pilot for Mobil Oil Corporation, and carried as passengers, J. L. Shinn, Eddie Nations and Marshall K. Higginbotham.

12.

On information and belief, said helicopter departed on said flight at about 3:40 P.M., on an approximate northeast heading, at an altitude of about 250 to 300 feet above

the water, flying in a normal manner, and was observed to continue flying normally for a distance of about one mile; however, shortly thereafter said helicopter crashed into the Gulf of Mexico approximaterly two and one-half to four miles northeast of Vermilion Block 215, causing instant death of said Joseph C. Long, Jr., J. L. Shinn, Eddie Nations and Marshall K. Higginbotham.

13.

On information and belief, at the time of said crash, the weather was clear with visibility unlimited; the wind was from the southeast at ten to eighteen knots, and the temperature was 86° .

14.

On information and belief, Libelant shows that decedent, Marshall K. Higginbotham, was a passenger in said Bell Helicopter at the time of his death; that said helicopter was manufactured by Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc., but was owned and operated and in the control of Mobil Oil Corporation; that respondents had full and exclusive custody, control and management of said helicopter; that the decedent Marshall K. Higginbotham relied upon respondents to properly design, manufacture and maintain said helicopter to provide safe transportation that decedent Marshall K. Higginbotham had no knowledge of or control whatsoever over the design, manufacture and maintenance and flying of said helicopter; that the crash that resulted in decedent's death was such that in the usual course of things it would not have occurred had the respondents exercised

proper care; that the respondents possess superior, if not exclusive, access to information concerning the precise cause or causes of the accident; and that Libelant, is entitled to rely upon the negligence of respondents as inferred from the general information herein alleged and therefore invokes the doctrine of res ipsa loquitur as applicable herein.

15.

In the alternative, and only in the alternative should it be held that the doctrine of res ipsa loquitur has no application herein, then, and in that event Libelant avers on information and belief that the crash of said helicopter and resulting death of decedent, Marshall K. Higginbotham, was due to the gross negligence of want of care on the part of respondents, Mobil Oil Corporation and Bell Helicopter Company in the design, manufacture and maintenance of said helicopter, and the lack of care of its pilot, which negligence is joint and concurrent between the respondents, and which proximately caused said crash and resulting death, as herein set forth.

16.

On information and belief, Libelant alleges that during said flight some part or parts of the structure of the helicopter failed, initiating a change of subsequent structural failures, rendering said helicopter incapable of flight and causing it to crash.

17.

Libelant avers upon information and belief that the gross

negligence and want of care on the part of respondents consisted particularly, but not exclusively, of the following acts of commission and omission, together with negligence in other respects, as will be shown upon the trial:

a. The aeronautical design by respondent, Bell Helicopter Company, of the Helicopter 206-A failed to provide for sufficient strength and durability to withstand the normal stress of helicopter flight.

b. Respondent, Bell Helicopter failed to use materials and methods in the construction of said helicopter 7846S adequate to provide sufficient strength and durability to withstand the normal stress of helicopter flight.

c. Respondent, Bell Helicopter Company, failed to manufacture said helicopter in a careful and prudent manner so as to prevent weakness in the structure thereof sufficient to withstand the normal stress of helicopter flight.

d. Respondent, Bell Helicopter Company, failed to adequately inspect and test said helicopter 7846S to determine that said helicopter was incapable of withstanding the normal stress of helicopter flight.

e. Respondent, Bell Helicopter Company, failed to do what it should have done and to see what it should have seen under these circumstances.

f. Failure to provide foreseeable users of the aircraft with airworthy craft.

g. Failure to warn in sufficient terms of recurrent failure

of the tail section of this particular model of helicopter.

i. (sic) Failure to properly see to it that modifications in the tail boom assembly were made and made properly, all of which would have prevented the in-flight failure, and/or structural failure of this particular helicopter.

18.

Libellant further avers upon information and belief that the gross negligence and want of care on the part of the respondent Mobil Oil Corporation consisted particularly, but not exclusively, of the following acts of commission and omission, together with negligence in other respects, as will be shown upon the trial:

a. Failure to inspect the design of helicopter 206-A to insure sufficient strength and durability to withstand the normal stress of helicopter flight.

b. Failed to adequately inspect the materials and methods in construction of said helicopter 7846S adequate to provide sufficient strength and durability to withstand the normal stress of helicopter flight.

c. Failed to inspect and maintain said helicopter in careful and prudent manner so as to detect and prevent weakness in the structure thereof sufficient to withstand the normal stress of helicopter flight.

d. Failed to adequately inspect and test said helicopter 7846S to determine the said helicopter was incapable of withstanding the normal stress of helicopter flight.

e. Failed to adequately select and train the pilot for flight and for emergencies.

f. Failed to do what it should have done and to see what it should have seen under the circumstances.

g. Failure to follow properly modifications and necessary proper procedures.

h. Failure to provide an airworthy craft and crew, including pilot.

i. Failure to make other necessary alterations in this particular helicopter, all of which would have prevented structural failure of said aircraft.

j. Failure to inspect said craft to prevent failure such as the one that occurred.

Libelant reserves the right to amend and supplement this article of the libel.

19.

Libelant further avers on information and belief that respondent expressly or impliedly warranted that said helicopter 7846S was safe, sound, airworthy and fit for normal passenger flight, which warranties were breached by the failures and defects in design and manufacture and maintenance of said helicopter and of its handling in flight as herein set out without particularity, which breaches of warranty proximately caused the crash of said helicopter 7846S and resulting death of decedent.

20.

Decedent, Marshall K. Higginbotham was born on February 15, 1925, and had a life expectancy of at least thirty years at the time of his death; decedent was employed as a senior tool pusher for Baxter Drilling, Inc. at a salary of ONE THOUSAND ONE HUNDRED DOLLARS ($1,100.00) per month; that decedent was in excellent health and had a high expectancy of substantial and steady increases in earnings during his life time, and particularly in following his career with Baxter Drilling, Inc.

21.

Decedent, Marshall K. Higginbotham, was a dutiful and devoted husband and father and by his untimely death, Libelant and the minor child, Donna Joyce Higginbotham, have been deprived of the love, care, attention and companionship which would have been theirs for many years; that said child has lost the value of the intellectual,moral, and physical training and education which only a father can supply; that decedent contributed sum total of all his earnings to the support of his family, and that as a result of the death of decedent, Libelant and said Minor child have been deprived of his support forever.

22.

As a result of the death of decedent, Marshall K. Higginbotham, caused as hereinabove set forth, Libelant, as surviving widow of the decedent, and Libelant's said minor child, Donna Joyce Higginbotham, have suffered damages in the following itemized amounts:

a. For the damages due Mrs. Francis Nell Higginbotham for the loss of support which she would have received had her husband lived $397,000.00

b. For damages due Mrs. Francis Nell Higginbotham for the loss of inheritance or her interest in residual community property 40,000.00

c. For damages due Donna Joyce Higginbotham for the loss of support which she would have received had her father lived $ 40,000.00

d. For damages due Donna Joyce Higginbotham for the loss of the intellectual, moral and physical training and education which she would have received had her father lived. 25,000.00

TOTAL $502,000.00

23.

For the foregoing reason, respondents are liable unto Libelant, as administratrix and personal representative of Marshall K. Higginbotham, deceased, for the use and benefit of Libelant and her said minor child, Donna Joyce Higginbotham, in the full and true sum of Five Hundred Two Thousand and No/100 ($502,000.00) together with legal interest from judicial demand and all costs.

24.

Libelant avers that the premises are true and within the Admiralty and Maritime jurisdiction of the United States

and of this Honorable Court.

25.

In the alternative, and only in the event the Court finds that the negligence of the respondents were not joint and concurrent then and in that event libelant avers that the said helicopter crash and resulting death of decedent, Marshall K. Higginbotham, was proximately caused by the separate and individual acts of negligence on the part of each respective respondent, as hereinabove set forth with particularity, and that each respondent is severally liable to libelant for the damages set forth.

SECOND CAUSE OF ACTION

In the alternative, and only if the Court should find that Libelant is not entitled to bring this proceeding under the provisions of 46 U.S.C.A. 761 et seq., then, and in that event, Libelant avers that respondents are fully and truly indebted unto Libelant individually and as Tutrix of her minor child, Donna Joyce Higginbotham, for their use and benefit, under the laws of the State of Louisiana, including but not limited to Article 2315 of Louisiana's Civil Code, as hereinafter set out, and Libelant respectfully requests this Honorable Court to transfer this action to the Civil side of the Court.

27.

Libelant, individually and as Tutrix of her minor child, Donna Joyce Higginbotham, for the use and benefit, repeats and realleges all of the allegations hereinabove set forth in

this libel in Article 4 through 25 the same as if the said allegations were copied herein in extenso.

28.

Libelant avers that the amount in controversy herein exceeds exclusive of interest and costs, the sum of TEN THOUSAND DOLLARS AND NO/100 ($10,000.00) and there is diversity of citizenship between libelant and respondents.

29.

As a result of the death of decedent, Marshall K. Higginbotham, caused as herein set forth, Libelant, as surviving widow of the decedent, and Libelant's minor child, Donna Joyce Higginbotham, have suffered damages in the following amounts:

a. For the damages due Mrs. Francis Nell Higginbotham for the wrongful death of her husband, Marshall K. Higginbotham, including the loss of his love, attention, devotion, care, affection and companionship $ 60,000.00

b. For the damages due Mrs. Francis Nell Higginbotham for the loss of support which she would have received had her husband lived 397,000.00

c. For the damages due Donna Joyce Higginbotham for the wrongful death of her father, including the loss of his fatherly love, attention, devotion, care, affection and companionship $ 50,000.00

d. For the damages due Donna Joyce Higginbotham for the loss of support which she would have received had her father lived 40,000.00

TOTAL $547,000.00

30.

For the foregoing reason, respondents are liable unto Libelant, individually and as Tutrix of her minor child, Donna Joyce Higginbotham, in the full and true sum of FOUR HUNDRED FIFTY SEVEN THOUSAND DOLLARS AND NO/100 ($457,000.00) together with legal interest from judicial demand until paid and all costs of this Court.

31.

In the further alternative, and only if the Court should find that Libelant is not entitled to bring this proceeding under the provisions of 46 U.S.C.A. 761 et seq., and if the Court should further find that Libelant is not entitled to have this action transferred to the Civil side of the Court, then, and in that event, Libelant avers that the laws of the State of Louisiana are applicable herein, and that libelant is entitled to recover the amounts in the manner and for the reasons herein set forth as a Second Cause of Action, all within the Admiralty and Maritime jurisdiction of the United States and this Honorable Court.

32.

Libelant desires and is entitled to a trial by jury on the

Second Cause of Action, hereinabove set forth.

WHEREFORE, LIBELANT PRAYS:

1. That citation in due form of law may issue against the respondents, Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc., citing it to appear and answer in the premises.

2. That citation in due form of law may issue against the respondents, Mobil Oil Corporation, citing it to appear and answer in the premises.

3. That after due proceedings had, the Court adjudge and decree that respondent, Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc., and Mobil Oil Corporation, jointly and in solido, paid to Libelant, Mrs. Francis Nell Higginbotham, as administratrix and personal representative of the decedent, Marshall K. Higginbotham, the sum of FIVE HUNDRED TWO THOUSAND DOLLARS AND NO/100 ($502,000.00), as damages, together with interest from August 15, 1967, until paid, and all costs.

4. In the alternative, and in the event that this Court should find that the provisions of 46 U.S.C.A. 761 et seq. are not applicable herein, then in that event the Court adjudge and decree that respondent, Bell Helicopter Company, a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc. and Mobil Oil Company, jointly and in solido, paid to Libelant, Mrs. Francis Nell Higginbotham, individually, the sum of FIVE HUNDRED FORTY SEVEN THOUSAND DOLLARS AND NO/100

($547,000.00) as damages and to Libelant as tutrix of her minor child, Donna Joyce Higginbotham, for their use and benefit, the sum of NINETY THOUSAND DOLLARS AND NO/100 ($90,000.00) together with legal interest thereon from date of judicial demand until paid, and all costs.

4. That trial by jury be granted as to the SECOND CAUSE OF ACTION hereinabove set forth.

5. That this Honorable Court grant to Libelant such other and further relief as the justice of the cause may require.

6. That two certified copies of this libel and citations to defendants Bell Helicopter Company a subdivision of or a subsidiary of and/or Bell Aerospace Corporation be prepared by the Clerk of this Court and delivered to counsel for petitioners for service on said defendants in accordance with the provisions of Section 3204 of Title 13 of the Louisiana's Revised Statutes of 1950.

THOMPSON & SELLERS

By /s/ Charles M. Thompson, Jr.
Charles M. Thompson, Jr.
Attorney for Petitioner
P. O. Box 308
Abbeville, Louisiana

STATE OF LOUISIANA
PARISH OF VERMILION

MRS. FRANCIS NELL HIGGINBOTHAM, being duly sworn, says that she is the administratrix and personal representative of the decedent, Marshall K. Higginbotham; that she is the Tutrix of her minor child, Donna Joyce Higginbotham; that she is the Libelant above named; that she has read the foregoing libel and knows the contents thereof; and that the same is true of her own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters, she believes them to be true.

/s/ Mrs. Francis Nell Higginbotham

Sworn to and subscribed before me this 22nd day of July, 1968.

Charles M. Thompson, Jr.
Notary Public

ANSWER OF MOBIL OIL CORPORATION

NO. 13,954

(Title Omitted)

TO THE HONORABLE, THE UNITED STATES DISTRICT COURT IN AND FOR THE WESTERN DISTRICT OF LOUISIANA:

Respondent, Mobil Oil Corporation, files this Answer in response to the Complaint of Libelant, Francis Nell Higginbotham, Administratrix of the Estate of Marshall K. Higginbotham.

1.

Respondent denies information or knowledge sufficient to form a belief as to the truth or falsity of Article 1 of such Libel.

2.

Respondent admits the allegations of Article 2 of such Libel.

3.

Respondent admits the allegations of Article 3 of such Libel.

4.

Respondent denies the allegations of Article 4 of such

Libel.

5.

Respondent admits that it was, on August 15, 1967, the owner and operator of a Bell Helicopter, Model 206-A, Registration No. 7846S, commonly known as the Jet Ranger, but specifically denies that it was the owner and operator of such aircraft at all times material herein.

6.

Respondent admits the allegations of Article 6 of the Libel.

7.

Respondent admits that in the course and scope of its business, Bell Helicopter designed, manufactured and sold to Mobil Oil Corporation a Bell helicopter known as Jet Ranger, Model 206-A, Registration No. 7846S, for use, and same was used by Mobil Oil Corporation for transportation of people and things in and about the Gulf of Mexico for oil and gas exploration and/or production. Respondent, however, specifically denies that such sale and use was made at or during all times material herein.

8.

Respondent admits to the allegations of Article 8 of the Libel.

9.

Respondent denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of Article 9.

10.

Respondent Mobil Oil Corporation denies the allegations of Article 10 of the Libel.

11.

Respondent admits the allegations of Article 11 of the Libel.

12.

Respondent admits to the allegations of Article 12 of the Libel.

13.

Respondent admits to the allegations of Article 13 of the Libel.

14.

Respondent Mobil Oil Corporation admits that Marshall K. Higginbotham was a passenger in said Bell helicopter at the time of his death; that said helicopter was manufactured by Bell Helicopter Company, a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron,Inc.; and

that such helicopter was, at the time of Marshall K. Higginbotham's death, owned and operated by Mobil Oil Corporation. Respondent Mobil Oil Corporation denies, however, that it had full and exclusive custody, control and management of said helicopter;and further specifically denies all other allegations in Article 14 of the Libel not herein specifically admitted.

15.

Respondent Mobil Oil Corporation denies the allegations of Article 15 insofar as same relates to Mobil Oil Corporation.

16.

At this time Respondent Mobil Oil Corporation denies information or knowledge sufficient to form a belief as to the truth or falsity of the allegations of Article 16.

17.

Insofar as Article 17 relates to Respondent Mobil Oil Corporation, if it does, Mobil Oil Corporation specifically denies that it was negligent in any manner alleged in Article 17.

18.

Respondent Mobil Oil Corporation denies the allegations of Article 18 and each subparagraph therein.

19.

Respondent Mobil Oil Corporation admits to the allegations of Article 19 of the Libel.

20.

At this time Respondent Mobil Oil Corporation denies information or knowledge sufficient to form a belief as to the truth or falsity of the allegations of Article 20.

21.

At this time Respondent Mobil Oil Corporation denies information or knowledge sufficient to form a belief as to the truth or falsity of the allegations of Article 21.

22.

At this time Respondent Mobil Oil Corporation denies information or knowledge sufficient to form a belief as to the truth or falsity of the allegations of Article 22.

23.

Respondent Mobil Oil Corporation denies the allegations of Article 23 of the Libel.

24.

Respondent Mobil Oil Corporation denies the allegations of Article 24 of the Libel.

25.

Respondent Mobil Oil Corporation denies the allegations of Article 25 of the Libel.

26.

Respondent Mobil Oil Corporation denies the allegations of Article 26 of the Libel.

27.

Respondent Mobil Oil Corporation, in response to Article 27 of the Libel, repeats and re-alleges all of the allegations hereinabove set forth in Articles 4 through 25 of this response, the same as if such allegations were copied herein in full.

28.

Respondent Mobil Oil Corporation denies information or knowledge sufficient to form a belief as to the truth or falsity of the allegations of Article 28.

29.

Respondent Mobil Oil Corporation denies the allegations of Article 29 of the Libel.

30.

Respondent Mobil Oil Corporation denies the allegations of Article 30 of the Libel.

31.

Respondent Mobil Oil Corporation denies the allegations of Article 31 of the Libel.

32.

Respondent Mobil Oil Corporation denies the allegations of Article 32 of the Libel.

WHEREFORE, Respondent prays that the libel herein be dismissed with all costs taxed to libelant.

W. H. TABB
RONALD L. NEILL
2311-H Mobil Building
P.O. Box 900
Dallas, Texas 75221
(214) 742-4131

LEMLE, KELLEHER,
KOHLMEYER, MATTHEWS,
& SCHUMACHER
1800 National Bank of Commerce
Building
New Orleans, Louisiana 70112

By George B. Matthews GF

By (Illegible)
Attorneys for Respondent Mobil
Oil Corporation

FIRST SUPPLEMENTAL AND AMENDED COMPLAINT

NO. 13,954

(Title Omitted)

TO THE HONORABLE THE JUDGES OF THE UNITED STATES DISTRICT COURT IN AND FOR THE WESTERN DISTRICT OF LOUISIANA, OPELOUSAS DIVISION

Now into Court through undersigned counsel, comes Francis Nell Higginbotham, as duly qualified administratrix and personal representative of Marshall K. Higginbotham, deceased, for the use and benefit of libelant and her minor child, Donna Joyce Higginbotham and individually, and as tutrix of said minor child, and with all due respect represents that:

1.

Complaint amends Paragraph 22 of the original complaint to read as follows:

22.

As a result of the death of decedent, Marshall K. Higginbotham, caused as hereinabove set forth, Libellant, as surviving widow of the decedent, and Libelant's said minor child, Donna Joyce Higginbotham, have suffered damages in the following itemized amounts:

a. For the damages due Mrs. Francis Nell Higginbotham for the loss of support which she would

have received had her husband lived $397,000.00

b. For damages due Mrs. Francis Nell Higginbotham for the loss of inheritance or her interest in residual community property 40,000.00

c. For damages due Donna Joyce Higginbotham for the loss of support which she would have received had her father lived 240,000.00

d. For damages due Donna Joyce Higginbotham for the loss of the intellectual, moral and physical training and education which she would have received had her father lived 225,000.00

TOTAL $902,000.00

II.

Complainant amends Paragraph 23 of the original complaint to read as follows:

23.

For the foregoing reason, respondents are liable unto Libelant, as administratrix and personal representative of Marshall K. Higginbotham, deceased, for the use and benefit of Libelant and her said minor child, Donna Joyce Higginbotham in the full and true sum of NINE HUNDRED TWO THOUSAND AND NO/100 (902,000.00) together with legal interest from judicial demand and all costs.

III.

Complainant further amends Paragraph 29 of the original complaint to read as follows:

29.

As a result of the death of decedent, Marshall K. Higginbotham, caused as herein set forth, Libelant, as surviving widow of the decedent, and Libelant's minor child, Donna Joyce Higginbotham, have suffered damages in the following itemized amounts:

a. For the damages due Mrs. Francis Nell Higginbotham for the wrongful death of her husband, Marshall K. Higginbotham, including the loss of his love, attention, devotion, care, affection and companionship $ 60,000.00

b. For the damages due Mrs. Francis Nell Higginbotham for the loss of support which she would have received had her husband lived 397,000.00

c. For the damages due Donna Joyce Higginbotham for the wrongful death of her father, including the loss of his fatherly love, attention, devotion, care, affection and companionship 50,000.00

d. For the damages due Donna Joyce Higginbotham for the loss of support which she would have received had her father lived 240,000.00

TOTAL $747,000.00

IV.

Complainant further amends Paragraph 30 of the original complaint to read as follows:

30.

For the foregoing reason, respondents are liable unto Libelant, individually and as Tutrix of her minor child, Donna Joyce Higginbotham, in the full and true sum of SEVEN HUNDRED FORTY-SEVEN THOUSAND AND NO/100 ($747,000) together with legal interest from judicial demand until paid and all costs of this court.

WHEREFORE, LIBELANT PRAYS:

1. That citation in due form of law may issue against the respondents, Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc., citing it to appear and answer in the premises.

2. That citation in due form of law may issue against the respondents, Mobil Oil Corporation, citing it to appear and answer in the premises.

3. That after due proceedings had, the Court adjudge and decree that respondent, Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc., and Mobil Oil Corporation, jointly and in solido, paid to Libelant, Mrs. Francis Nell Higginbotham, as administratrix and personal representative of the decedent, Marshall K. Higginbotham, the sum of NINE HUNDRED TWO THOUSAND AND NO/100 ($902,000)

as damages, together with interest from August 15, 1967, until paid, and all costs.

4. In the alternative, and in the event that this Court should find that the provisions of 46 U.S.C.A. 761 et seq. are not applicable herein, then in that event the Court adjudge and decree that respondent, Bell Helicopter Company a subdivision of or a subsidiary of Bell Aerospace Corporation and/or Textron, Inc. and Mobil Oil Corporation, jointly and in solido, paid to Libelant, Mrs. Francis Nell Higginbotham, individually, the sum of FOUR HUNDRED FIFTY-SEVEN DOLLARS AND NO/100 (sic) ($457,000.00) as damages and to Libelant as Tutrix of her minor child, Donna Joyce Higginbotham, for their use and benefit, the sum of TWO HUNDRED NINETY THOUSAND AND NO/100 ($290,000.00) together with legal interest thereon from date of judicial demand until paid, and all costs.

5. That trial by jury be granted as to the SECOND CAUSE OF ACTION hereinabove set forth.

6. That this Honorable Court grant to Libelant such other and further relief as the justice of the cause may require.

7. That two certified copies of this libel and citations to defendants Bell Helicopter Company a subdivision of or a subsidiary of and or Bell Aerospace Corporation be prepared by the Clerk of this Court and delivered to counsel for petitioners for service on said defendant in accordance with the provisions of Section 3204 of Title 13 of the Louisiana's Revised Statutes of 1950.

THOMPSON & SELLERS

By Charles M. Thompson, Jr.
Attorneys for Petitioner

Filed
Feb. 25, 1971

ANSWER TO FIRST SUPPLEMENTAL AND AMENDED COMPLAINT

NO. 13, 954

(Title Omitted)

The answer of Mobil Oil Corporation to complainant's First Supplemental and Amended Complaint respectively represents that:

I.

The original Answer and Cross-Claim and the Supplemental and Amending Answer and Cross-Claim of Mobil Oil Corporation are referred to and made part hereof by reference as though copied in extenso herein.

II.

The allegations of Paragraph I of the First Supplemental and Amended Complaint are denied.

III.

The allegations of Paragraph II of the First Supplemental and Amended Complaint are denied.

IV.

The allegations of Paragraph III of the First Supplemental and Amended Complaint are denied.

V.

The allegations of Paragraph IV of the First Supplemental and Amended Complaint are denied.

WHEREFORE, defendant, Mobil Oil Corporation, prays that the libel herein be dismissed with all costs taxed to libelant; and for all just and equitable relief.

/s/ Carl J. Schumacher, Jr.
/s/ Robert E. Badger

LEMLE, KELLEHER,
KOHLMEYER,
MATTHEWS & SCHUMACHER

Ronald L. Neill
P.O. Box 900
Dallas, Texas
Attorneys for Mobil Oil Corporation

Filed
Jan. 28, 1971

COMPLAINT OF JEANETTE LE BLANC NATION

NO. 15,316

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

JEANETTE LE BLANC NATION,
As personal representative for
ELLA MENARD NATION and ROY GLEN NATION,
Plaintiffs

CIVIL ACTION
NO 68-1344

VERSUS

SECTION C

TEXTRON INDUSTRIES, INC., d/b/a
BELL HELICOPTER COMPANY
or BELL HELICOPTER COMPANY
and MOBIL OIL CORPORATION
Defendants

NO. 15,316

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES DISTRICT COURT IN AND FOR THE EASTERN DISTRICT OF LOUISIANA, NEW ORLEANS DIVISION

Now into Court through undersigned counsel, comes JEANETTE LE BLANC NATION, as personal representative of the decedent, JAMES E. NATION, for the exclusive benefit of his surviving spouse, ELLA MENARD NATION and his son, ROY GLEN NATION, all persons of the full age of majority, and with all due respect, does represent as follows:

1.

This Honorable Court has jurisdiction by virtue of the fact that the personal representative for the persons in this action is a citizen of the State of North Carolina and that neither defendants, TEXTRON INDUSTRIES, INC. d/b/a BELL HELICOPTER COMPANY or BELL HELICOPTER COMPANY and MOBIL OIL CORPORATION, for the purposes of this accident, are citizens of the State of North Carolina but rather TEXTRON INDUSTRIES, INC., d/b/a BELL HELICOPTER COMPANY or BELL HELICOPTER COMPANY are citizens of the State of Texas and MOBIL OIL CORPORATION is a citizen of the State of Louisiana and of the State of Delaware.

II.

On August 15, 1967, decedent, JAMES E. NATION, was killed as a result of the joint negligence of both defendants herein, namely, TEXTRON INDUSTRIES, INC., d/b/a BELL HELICOPTER COMPANY or BELL HELICOPTER COMPANY and MOBIL OIL CORPORATION, when he was a passenger in a Bell "Jet Ranger" Helicopter, Model 206-A, bearing FAA identification No. N-7846S, crashed into the Gulf of Mexico more than one marine league from shore.

III.

TEXTRON INDUSTRIES, INC., d/b/a BELL HELICOPTER COMPANY or BELL HELICOPTER COMPANY, shall hereinafter be referred to as Textron-Bell and MOBIL OIL CORPORATION shall hereinafter be referred to as Mobil.

IV.

The negligence of Textron-Bell consisted of more particularly but not exclusively of the following:

(a) Failure to provide foreseeable users of an aircraft with an airworthy craft;

(b) Failure to warn in sufficient terms of the recurrent failure of the tail section of this particular model; and

(c) Failure to properly see to it that modifications in the tail boom assembly were made and made properly, all of which would have prevented the in-flight failure, structural failure of this particular helicopter.

The negligence of Mobil consisted more particularly of the failure to follow the proper modifications and proper procedure, and to provide an airworthy craft and crew, and to make other alterations in this particular craft, all of which would have prevented structural failure of said craft, and the failure to inspect said craft to prevent failure such as the one that occurred.

V.

Both plaintiffs are entitled to proceed under 2315 Louisiana Code of Civil Procedure and are further entitled to proceed in this cause of action on The Death On The High Seas Act.

VI.

As a result of the death of decedent, JAMES E. NATION,

his surviving spouse, ELLA MENARD NATION, has been damaged to the extent of TWO HUNDRED FIFTY THOUSAND AND NO/100 ($250,000.00) DOLLARS; As a result of the death of James E. Nation, his surviving son and heir, Roy Glen Nation, has been damaged to the extent of TWO HUNDRED FIFTY THOUSAND AND NO/100 ($250,000.00) DOLLARS.

WHEREFORE, the personal representative for Ella Menard Nation and Roy Glen Nation prays as follows:

1. That all defendants be served with a copy of this petition, together with citation, ordering them to appear and answer same;

2. That after due proceeding had let there be judgment herein against both defendants, jointly and in solido, in the full sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 ($250,000.00) DOLLARS in favor of Ella Menard Nation and TWO HUNDRED FIFTY THOUSAND AND NO/100 ($250,000.00) DOLLARS in favor of Roy Glen Nation.

By: s/ George J. Garzotto
GEORGE J. GARZOTTO,T.A.
Attorney for plaintiff
1040 Maison Blanche Bldg.
New Orleans, Louisiana 70112
525-5292

Filed

July 12, 1968
Eastern Dist. of La.

Filed

Jan. 7, 1970
—— Western Dist. of La.

ANSWER AND CROSS CLAIM OF MOBIL OIL CORPORATION

NO. 15, 316

(Title Omitted)

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT IN AND FOR THE EASTERN DISTRICT OF LOUISIANA, NEW ORLEANS, LOUISIANA

Defendant, Mobil Oil Corporation, (hereinafter called "Mobil"), for its answer to Plaintiff's Complaint, respectfully presents the following:

First Defense

The Complaint fails to state a claim against Defendant Mobil Oil Corporation, upon which relief may be granted.

Second Defense

Defendant, Mobil, is without sufficient knowledge or information to form a belief as to the truth of the allegation that Plaintiff, Jeanette Le Blanc Nation is a citizen of the State of North Carolina. Defendant denies the remaining allegations of Paragraph I of the Complaint.

Third Defense

Defendant admits that James E. Nation was killed when a Bell "Jet Ranger" helicopter, Model 206-A, bearing FAA

Identification No. N-7846S, in which he was a passenger, crashed into the Gulf of Mexico more than one marine league from shore. Defendant specifically denies the remainder of Paragraph II. Defendant Mobil admits the allegations of Paragraph III of the Complaint.

Fourth Defense

Defendant denies Paragraph IV of the Complaint. For further answer, Defendant, Mobil, alleges that if the accident which is the basis of this Complaint, was the result of negligence, such negligence was that of Bell Helicopter Company, a Division of Bell Aerospace Corporation, in the design, manufacture, and sale of the aircraft to Mobil.

Fifth Defense

Defendant denies the allegations in Paragraph V of the Complaint. In this regard, Defendant alleges that Plaintiff has heretofore received and accepted benefits which accrued and which were tendered to Plaintiff under the "Longshoremen's and Harbor Workers' Compensation Act", 33 U.S.C. 901, et seq., which is the exclusive remedy available to Plaintiff for damages arising out of the accident in question.

Sixth Defense

Defendant denies the allegations contained in Paragraph VI of the Complaint.

WHEREFORE, Defendant, Mobil Oil Corporation, prays that the Complaint of Plaintiff, Jeanette LeBlanc Nation, as personal representative for Ella Menard Nation and Roy

Glen Nation, be dismissed as to Defendant Mobil Oil Corporation, and that it recover its costs and all other general relief.

CROSS-CLAIM

Defendant, Mobil Oil Corporation, acting as Plaintiff herein, files this cross-claim against Bell Helicopter Company, a Division of Bell Aerospace Corporation, (hereinafter called "Bell"), and as grounds for its Complaint would respectfully show the following:

1.

This Honorable Court has jurisdiction of this cross-claim by virtue of the facts that there is diversity of citizenship and amount.

2.

Cross-Claimant, Mobil, is a corporation incorporated under the laws of the State of New York, and having its principal place of business in the State of New York. Cross-Defendant, Bell Aerospace Corporation, is a corporation incorporated under the laws of the State of Delaware with its principal place of business in Delaware. Plaintiff is a citizen of the State of North Carolina. The matter in controversy exceeds, exclusive of interest and costs, the sum of $10,000.00.

3.

Cross-Claimant, Mobil, would show that if the accident in

question was the result of negligence, which it denies, such negligence was that of Bell in the design, manufacture, and sale of the helicopter aircraft to Mobil. Further, such negligence was the direct and proximate cause of the accident in question. Accordingly, Mobil is entitled to be indemnified by Bell for all liability herein, if any, which may be adjudged against it.

WHEREFORE, cross-claimant Mobil prays that it have and recover from Bell Helicopter Company, a Division of Bell Aerospace Corporation, any and all liability which may be adjudged herein against Mobil, if any, and for all other general relief.

Respectfully submitted,

W. H. TABB
RONALD L. NEILL
2307 Mobil Building
P.O. Box 900
Dallas, Texas 75221
(214) 742-4131

/s/ Ronald L. Neill

George B. Matthews
George A. Frilot, III
1800 National Bank of Commerce Bldg.
New Orleans, La.

Filed
Jan. 7, 1970

FIRST SUPPLEMENTAL COMPLAINT

NO. 15,316

(Title Omitted)

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES DISTRICT COURT IN AND FOR THE WESTERN DISTRICT OF LOUISIANA, OPELOUSAS DIVISION

Now into Court through undersigned counsel comes Jeanette LeBlanc Nation, as personal representative of the decedent, James E. Nation, for the exclusive benefit of his surviving spouse, Ella Menard Nation and his son, Roy Glen Nation, all persons of the full age of majority and with all due respect represents that:

1.

Complainant amends paragraph IV of the original complaint to read as follows:

IV.

The negligence of Textron-Bell consists particularly, but not exclusively of the following: Failure to design, fabricate, and manufacture an airworthy helicopter, and the failure to select safe design and materials for said craft, failure to provide foreseeable users of an aircraft with an airworthy craft, failure to warn in sufficient terms of the recurrent failure of the tail section of this particular model 206-A, and failure to warn at all of potential problems after having received many complaints from other customers of

cracking in the tail boom, and failure to properly see to it that modifications in tail boom assembly were made and made properly, all of which would have prevented the in-flight failure of structural members of this helicopter, namely the tail boom.

The negligence of Mobil consisted more particularly but not exclusively of the failure to follow the proper modifications and proper procedure, failure to adequately hire and select competent pilots and the failure to provide an airworthy craft and crew, and to make alterations in this particular craft, all of which would have prevented the structural failure of said craft, and the failure to inspect said craft to prevent in-flight failure such as the one that did occur; the manning of said helicopter with a pilot lacking competent disposition and maturity and the failure of Mobil to furnish a safe and sound means and mode of transportation to, from and between job assignments for James E. Nation, a seaman, and its employee.

2.

Complainant further amends Paragraph IV by adding the following paragraphs to read as follows:

IV-A

At all times pertinent hereto, defendant, Mobil Oil Corporation owned, operated, equipped, manned, managed, and controlled many navigable vessels to which decedent James E. Nation was assigned as a member of the crew and who was then and there contributing to the mission and purpose thereof and the last vessel being "Crestwave Topper

#1".

IV-B.

On or about August 15, 1967, while said vessel, "Crestwave Topper #1" was located in navigable waters, Gulf of Mexico, off of the Louisiana coast, decedent, James E. Nation, lost his life while pursuing his assigned work duties as a result of the negligence of defendant, Mobil Oil Corporation, its representatives and/or its employees and also due to the unseaworthiness of said vessel and its personnel and appliances.

IV-C

IV-C

Decedent was killed while being transported from one work location to another in a Bell "Jet Ranger" Helicopter owned by Mobil Oil Corporation.

3.

Complainant amends paragraph V of the original complaint to read as follows:

V.

Both plaintiffs are entitled to proceed under Article 2315 of the Louisiana Civil Code and are further entitled to proceed in this same cause of action under the Death on the High Seas Act, the Jones Act and the General Maritime Law.

WHEREFORE, the personal representative for Ella Men-

ard Nation and Roy Glen Nation pray as follows: That all defendants be served with a copy of this petition, together with citation, ordering them to appear and answer same; that after due proceeding had let there be judgment herein against both defendants, jointly and in solido, in the full sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 ($250,000.00) DOLLARS in favor of Ella Menard Nation and TWO HUNDRED FIFTY THOUSAND AND NO/100 ($250,000.00) DOLLARS in favor of Roy Glen Nation; together with all costs and disbursements of this action, interest from date of judicial demand, for all general and equitable relief, and for a trial by jury.

THOMPSON & SELLERS

By Charles M. Thompson, Jr.

Filed
Feb. 25, 1971.

ANSWER TO FIRST SUPPLEMENTAL AND AMENDED COMPLAINT

NO. 15,316

(Title omitted)

The answer of Mobil Oil Corporation to complainant's First Supplemental and Amended Complaint respectfully represents that:

I.

The original Answer and Cross-Claim and the Supplemental and Amending Cross-Claim of Mobil Corporation are referred to and made a part hereof by reference as though copied in extenso herein.

II.

The allegations of Paragraph 1 of the First Supplemental and Amended Complaint, insofar as they apply to Textron-Bell, require no answer on the part of Mobil Oil Corporation; the remainder of the allegations of Paragraph 1, insofar as they apply to Mobil Oil Corporation, are denied.

III.

Defendant, Mobil Oil Corporation, admits the allegations of Sub-Paragraph IV-A of Paragraph 2 of the First Supplemental and Amended Complaint insofar as they allege that at all times pertinent herein Mobil owned, operated, equipped, manned, managed and controlled many navigable

vessels; denies the remainder of the allegations in Sub-Paragraph IV-A; specifically denies that Mobil owned, operated, equipped, manned, managed and controlled the vessel CRESTWAVE TOPPER NO. 1, at all times pertinent herein; and specifically denies that decedent, James E. Nation, was at all times pertinent herein a member of the crew of the vessel CRESTWAVE TOPPER NO. 1.

IV.

Defendant, Mobil Oil Corporation, admits the allegations of Sub-Paragraph IV-B of Paragraph 2 of the First Supplemental and Amended Complaint insofar as they allege that decedent, James E. Nation, lost his life while pursuing his assigned work duties on or about August 15, 1967; denies for lack of sufficient information to justify a belief as to the truth of the allegation that at all times pertinent herein the vessel CRESTWAVE TOPPER NO. 1 was located in navigable waters, Gulf of Mexico, off the Louisiana coast; and denies the remainder of the allegations of Sub-Paragraph IV-B of Paragraph 2.

V.

Defendant, Mobil Oil Corporation, admits the allegations of Sub-Paragraph IV-C of Paragraph 2 of the First Supplemental and Amended Complaint insofar as they allege that decedent was killed while being transported in a Bell "Jet Ranger" Helicopter owned by Mobil; but denies the remainder of the allegations of Sub-Paragraph IV-C.

Defendant, Mobil Oil Corporation, denies the allegations of Paragraph 3 of the First Supplemental and Amended

Complaint.

WHEREFORE, defendant, Mobil Oil Corporation, prays that the Complaint and First Supplemental and Amended Complaint of plaintiff, Jeanette LeBlanc Nation, be dismissed as to defendant, Mobil Oil Corporation, with all costs taxed to complainant;and for all just and equitable relief.

/s/ Carl J. Schumacher, Jr.

/s/ Robert E. Badger

Ronald L. Neill

Attorneys for Mobil Oil Corp.

Filed
Jan. 28, 1971

COMPLAINT FOR DAMAGES

NO. 15,326

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

MRS. ARLINE J. SHINN, Individually and as Testamentary Executrix of the Succession of J. L. Shinn, Deceased	CIVIL ACTION NO. 68-1508
VERSUS	
MOBIL OIL CORPORATION	SECTION D (Western Dist. of La. No. 15,316)

COMPLAINT FOR DAMAGES

TO THE HONORABLE THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, NEW ORLEANS DIVISION, AND THE JUDGES THEREOF:

The complaint of Mrs. Arline Jones, widow of J. L. Shinn, of lawful age, residing at Apartment 204, La Vista Apartments, San Marcos, Texas, through her undersigned counsel, complaining of the above-named defendant, Mobil Oil Corporation, respectfully alleges and shows unto this Honorable Court that:

1.

Plaintiff is the duly appointed and qualified testamentary executrix of the Succession of J. L. Shinn as per letters testamentary issued to her by the Sixteenth Judicial District Court for the Parish of St. Mary, Louisiana, in proceedings bearing number 8 2 1 3 on the docket by said Court:

2.

Plaintiff is also the surviving widow of J. L. Shinn who was married but once and then to plaintiff on March 5, 1931, in Georgetown, Texas;

3.

Of said marriage six children were born, namely, Robert Phil, Patsy Fay, Eldon Ray, James Lynwood, John Eugene and Linda Arlene Shinn, the latter two of whom are under the age of 21 years, resided with and, along with the plaintiff, were wholly dependent upon, the said J. L. Shinn, deceased;

4.

On and for sometime prior to August 15, 1967, the said J. L. Shinn was employed by the defendant, Mobil Oil Corporation at a salary of $1,249.00 per month;

5.

On and prior to August 15, 1967, the defendant employed the said J. L. Shinn as a seaman and member of the crew

of a certain vessel, namely, Penrod Drilling Barge 50, a submersible drilling vessel engaged, at all times pertinent hereto, in mineral exploration activities on navigable waters of the United States in the Gulf of Mexico above the Outer Continental Shelf more than a marine league from the shore of any State;

6.

On August 15, 1967, shortly after 3:20 p.m., the said J. L. Shinn was riding as a passenger in a certain "Jet Ranger" helicopter owned by the defendant, Mobil Oil Corporation and, at all times pertinent hereto, operated by an employee of said defendant, other than the said J.L. Shinn, in the course and scope of said employee's employment by the defendant as a helicopter operator;

7.

On August 15, 1967, at approximately 3:20 p.m., the aforementioned helicopter departed a platform or other structure situated in the Gulf of Mexico more than a marine league from the shore of any state, with the said J. L. Shinn aboard, destined for the aforementioned vessel, Penrod Drilling Barge 50 to which the said J. L. Shinn was assigned;

8.

At sometime shortly after 3:20 a.m. on August 15, 1967, the said helicopter failed and/or otherwise ceased to function and crashed into the sea;

9.

As a result of the aforementioned incident the said J. L. Shinn and all other persons aboard said helicopter lost their lives;

10.

As a consequence of the aforementioned disaster, plaintiff and the minor children of the decedent have been, are being and will be damaged to the extent of their pecuniary losses of support, nurture and inheritance due to the death of their husband and father in an amount not less than $225,000.00;

11.

The aforesaid disaster and damages result in whole or in part from the wrongful acts, neglect, default, negligence and dereliction of the defendant, Mobil Oil Corporation, its agents, servants, and employees, other than the said J. L. Shinn, in the operation, maintenance, care and supervision of the defendant's said helicopter, as well as from the unseaworthiness of the vessel on which the said decedent was employed, its appurtenances and appliances, including defendant's said helicopter;

12.

In the event, and only in the event, that the Court is unable to determine which of the aforementioned caused or contributed to the decedent's death, then, in that event, plaintiff avers that the fact of the helicopter's crash imposes

liability upon this defendant as a matter res ipsa loquitur, which said doctrine plaintiff specially pleads herein;

13.

At all times pertinent hereto and presently the defendant, Mobil Oil Corporation, was and is a corporation authorized to do and doing business within the jurisdiction of this Honorable Court;

14.

The plaintiff brings this action against the defendant pursuant to the provisions of the Jones Act and the Death on the High Seas Act, including all warranties embodied therein.

WHEREFORE, plaintiff, Mrs. Arline Jones Shinn, prays for judgment against the defendant, Mobil Oil Corporation, in the full sum of $225,000.00, with interest thereon from the date of commencement of the beneficiaries' losses hereinabove set forth, all costs and disbursements of this action and for all general and equitable relief.

KIERR and GAINSBURGH

By Samuel C. Gainsburgh
ATTORNEYS FOR
PLAINTIFF

Of Counsel
BERNARD E. BOUDREAUX, JR.
Lawless Building
Franklin, Louisiana

Filed
Aug. 12, 1968

ANSWER OF DEFENDANT MOBIL OIL CORPORATION

NO. 15,326

(Title omitted)

Defendant, Mobil Oil Corporation (hereinafter called "Mobil"), for its Answer to Plaintiff's Complaint, respectfully presents the following:

First Defense

The Complaint fails to state a claim against Defendant, Mobil Oil Corporation, upon which relief may be granted.

Second Defense

Defendant, Mobil, is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraphs 1, 2, and 3 of the Complaint.

Third Defense

Defendant, Mobil, admits the allegations contained in paragraph 4 of the Complaint.

Fourth Defense

As to paragraph 5 of Plaintiff's Complaint, Mobil denies that J. L. Shinn was employed as a seaman and member of the crew of any vessel at any time and further denies that Penrod Drilling Barge 50 is a vessel.

Mobil admits that J. L. Shinn was at all pertinent times a

Mobil employee and that his duties did, at times, require his presence on the Penrod Drilling Barge and that such Drilling Barge was engaged in mineral exploration activities on the Continental Shelf in the Gulf of Mexico more than one marine league from the shore of any state. It denies all other allegations of such paragraph except those specifically admitted.

Fifth Defense

Defendant, Mobil, admits that on August 15, 1967, shortly after 3:20 P.M., J. L. Shinn was riding as a passenger on a certain "Jet Ranger" helicopter owned by Mobil Oil Corporation and that on such date and at such time the said helicopter was operated by an employee of Mobil, other than J. L. Shinn, in the course and scope of such employee's employment as a helicopter operator. Defendant, Mobil, denies that at all times pertinent to the transaction complained of by plaintiff the helicopter described in paragraph 6 was operated by employees of Defendant.

Sixth Defense

As to paragraph 7 of plaintiff's complaint, Mobil denies that Penrod Drilling Barge 50 is a vessel and denies that J. L. Shinn's duties could be described as "assigning him to said drilling barge." The other allegations of said paragraph 7 are admitted.

Seventh Defense

The allegations of paragraph 8 and 9 of the Complaint are admitted.

Eighth Defense

The allegations of paragraphs 10, 11, 12, 13 and 14 of the Complaint are denied.

Ninth Defense

Defendant, Mobil, alleges that the accident described in paragraph 8 of plaintiff's complaint was the result of an unavoidable accident.

Tenth Defense

Defendant, Mobil, alleges that plaintiff has heretofore received and accepted benefits which accrued and were tendered to plaintiff by defendant under the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901, et seq., which is the exclusive remedy available to plaintiff for damages arising out of the accident complained of.

WHEREFORE, Defendant, Mobil Oil Corporation, prays that the Complaint of Plaintiff, Arline J. Shinn, Individually and as Testamentary Executrix of the Succession of J. L. Shinn, Deceased, be dismissed as to Defendant Mobil Oil Corporation, and that it recover its costs and all other general relief.

W. H. TABB
RONALD L. NEILL

George B. Matthews
George A. Frilot
Attorneys for Mobil Oil Corp.

Filed
Sept. 3, 1968

AMENDED COMPLAINT FOR DAMAGES

NO. 15,326

(Title Omitted)

TO THE HONORABLE THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, NEW ORLEANS DIVISION, AND THE JUDGES THEREOF:

The amended complaint of Mrs. Arline Jones, widow of J. L. Shinn, of lawful age, residing at Apartment 204, La Vista Apartments, San Marcos, Texas, through her undersigned counsel, respectfully alleges and shows unto the Honorable Court that:

A.

Plaintiff repeats and realleges each and every allegation heretofore set forth in paragraphs 1 through 14 of the original complaint as though repeated herein in toto and in extenso, insofar as the same may be pertinent hereto;

B.

Since the filing of the original complaint, the defendant, Mobil Oil Corporation, has filed a third party complaint revealing that said defendant, Mobil Oil Corporation, purchased the helicopter involved in this litigation from Bell Helicopter Company, a division of Bell Aerospace Corporation, and in which third party complaint defendant, Mobil Oil Corporation, alleges that if the catastrophe involved in

this litigation was the result of negligence, such negligence was that of Bell Helicopter Company, a division of Bell Aerospace Corporation, in the design, manufacture and sale of the helicopter to Mobil Oil Corporation, defendant herein, and further that such negligence was the direct and proximate cause of the catastrophe involved in this litigation.

C.

In view of the foregoing, if established by the evidence and proof of the parties, plaintiff is entitled to recover her said damages from Bell Helicopter Company, a division of Bell Aerospace Corporation, and/or Mobil Oil Corporation;

D.

Therefore, plaintiff desires to make the said Bell Helicopter Company, a division of Bell Aerospace Corporation, a party defendant in these proceedings:

WHEREFORE, plaintiff prays that:

1. She be permitted to file this amended complaint;

2. Bell Helicopter Company, a division of Bell Aerospace Corporation, be made a party defendant herein; and

3. She may have judgment against Mobil Oil Corporation and Bell Helicopter Company, a division of Bell Aerospace Corporation, jointly, severally, or in solido, in the full sum of $225,000.00, with interest thereon from the date of commencement of the beneficiaries losses hereinabove set

forth, all costs and disbursements of this actior. and for all general and equitable relief.

Kierr and Gainsburgh

By Samuel C. Gainsburgh

Filed
Nov. 13, 1968

AMENDED COMPLAINT FOR DAMAGES

NO. 15,326

(Title Omitted)

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF LOUISIANA, OPELOUSAS DIVISION:

The amended complaint of Mrs. Arline Jones, widow of J. L. Shinn, of lawful age, residing at apartment 204, La Vista Apartments, San Marcos, Texas, through her undersigned counsel, respectfully alleges and shows to this Honorable Court that:

1.

Plaintiff repeats and re-alleges each and every allegation heretofore set forth in paragraphs 1 through 14 of the original complaint and paragraphs A, B, C, and D of the first

amended complaint as though repeated herein in toto and in extenso, insofar as the same may be pertinent hereto.

2.

Plaintiff avers that the said crash, death and resulting damages were caused or contributed to by defendant, Bell Helicopter Company, a division of Bell Aerospace Corporation, by its officers, agents and employees, in negligently designing, manufacturing, selling, modifying or failing to properly and timely modify, servicing or failing to properly service said helicopter and its component parts; in creating a dangerous condition aboard said helicopter and in failing timely to warn of said dangerous condition; in failing to timely modify or remove or in failing to properly modify or remove said dangerous condition; in failing to take all means and precautions necessary in order to avoid said crash; and defendant was otherwise negligent; further, plaintiff avers that said defendant breached its warranty, both express and implied, of the fitness of its said product and plaintiff avers that said defendant is liable to plaintiff on the theory of strict tort liability, under all applicable laws.

3.

Plaintiff brings this action against defendant, Bell Helicopter Company, a division of Bell Aerospace Corporation, pursuant to the provisions of the Death On The High Seas Act, including all warranties embodied therein, the General Maritime Law, and the laws of the State of Texas as they may apply.

WHEREFORE, plaintiff respectfully prays that she be permitted to file this amended complaint and for judgment as heretofore prayed for.

KIERR AND GAINSBURGH

Filed
Dec. 30, 1970

By Jack C. Benjamin

ANSWER OF DEFENDANT, MOBIL OIL CORPORATION, TO PLAINTIFF'S AMENDED COMPLAINT FOR DAMAGES

NO. 15,326

(Title Omitted)

Now into Court through undersigned counsel comes defendant, Mobil Oil Corporation, and for its answer to plaintiff's amended complaint for damages respectfully represents that:

1.

The original Answer and Third-Party Complaint and the Supplemental and Amending Answer and Third-Party Complaint of Mobil Oil Corporation are referred to and made a part hereof by reference as though copied in extenso herein.

2.

The allegations of paragraph 1 of the Amended Com-

plaint for Damages are denied insofar as they are applicable to Mobil Oil Corporation.

3.

The allegations of paragraphs 2 and 3 of the Amended Complaint for Damages are not applicable to Mobil Oil Corporation and, as such, no answer is required by Mobil.

WHEREFORE, defendant, Mobil Oil Corporation, prays that the complaint, and both amended complaints for damages of plaintiff, Mrs. Arline J. Shinn, individually and as testamentary executrix of the succession of J. L. Shinn, deceased, be dismissed as to defendant, Mobil Oil Corporation, and that it recover its costs and all other general and equitable relief.

CARL J. SCHUMACHER, JR.,
By /s/ Robert E. Badger

Robert E. Badger

Filed
March 9, 1971